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REVIEW OF DEVELOPMENTS IN OTHER FIELDS OF CONTEMPORARY FORMS OF SLAVERY

Debt bondage

ANTI-SLAVERY INTERNATIONAL

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Bonded labour in Nepal

The abolition of slavery in Nepal was declared in 1924 and gave the first blow to the practice of labour exploitation of one person by another. Abolition attained legal sanction with the Government's enactment of a law in 1948. All the constitutions of Nepal have since imposed restrictions on exploitative practices such as slavery and trafficking. In spite of these measures, exploitation is persisting in various forms. The Kamaiya system, prevalent in the Terai of Western Nepal, still survives.

Former Governments have never taken the issue of slavery seriously and have never tried to implement the constitutional provision in practice. After the success of the peoples' movement, the new constitution of Nepal (1990) stated in article 20 (1), "Traffic in human beings, slavery, serfdom or forced

labour in any form is prohibited. Any violation of this provision is punishable by law ...". However there is no law which clearly applies to those who keep bonded labourers.

To investigate the nature, magnitude and number of Kamaiyas (bonded labourers), the Informal Sector Service Centre (INSEC) conducted in-depth research in 1992, in three districts in the far west of Nepal, Kailali, Kanchanpur and Bardiya.

The main aim of the study was to identify the nature of the problem. The study has revealed the form and the manner of the bonded labour system in this area of Nepal. The study has provided data on the skills, knowledge and resources of bonded labourers, revealed the development of the present situation and the gravity of the Kamaiyas' plight (in terms of indebtedness, poverty, etc.) and other factors crucial for the planning of any programmes to liberate and rehabilitate the bonded labourers and their families. About 17,000 people were interviewed in the course of the study. It is possible to extrapolate from this study that there may be as many as 25,000 families of bonded labourers in the three districts, or approximately 100,000.

A large proportion of the bonded labourers in the three districts are Tharu, the indigenous people of Nepal. At least 16 per cent of the population, or 50 per cent of the Tharu people, serve as Kamaiya or live in a Kamaiya household. A Kamaiya is a person who has a one year verbal contract with an employer, usually a landowner, under certain conditions. Usually the conditions are very unfavourable for the employee and for his family. The characteristics of the contract are:

- a fixed amount of food, land, cash, or other goods to be paid to the Kamaiya by the employer or master, which is usually too little for the Kamaiya and his family to live on for one year,

- the possibility for the master to fine the Kamaiya up to NRs 54 (US$ 1) per day in the case of absence. He can also be fined for loss or damage of tools,

- the condition that the wife and children of the Kamaiya will work for the same master.

If the master does not fulfil his contractual duties or abuses the Kamaiya, the contract cannot be ended before the end of the year. Women in Kamaiya families are often victims of sexual harassment by the masters.

Once a year, at the festival known as Maghi, Kamaiyas can look for new employers. Very often the employees are not Tharu but hill-people, who have better negotiating skills than the Tharu. The supply of labour is larger than the demand. Kamaiyas have only agricultural skills, no land and few possessions, all of which leaves them few alternatives. They are ignorant of their rights. All these factors keep wages low and leave Kamaiyas in a position dependent on their employers.

The result is that working conditions for Kamaiyas are very bad. Working days of 18 hours are usual; there are no provisions for free days or for

illness; some masters fine and abuse Kamaiyas. Families of Kamaiyas (average size is 6.4 members) have to work for the same master without additional payment; the family is the labour unit. Even if Kamaiyas can change their master once a year, their families have no choice.

An important feature of the system is sauki, or loan. Since a Kamaiya earns less than his expenses, sooner or later he will have to borrow. At least 30.67 per cent of Kamaiyas own sauki. Loans are generally used to meet domestic expenses like festivals (NRs 5,365 maximum), marriages (NRs 3,850) and funerals (NRs 1,850), medical treatment, food and clothing. Many Kamaiyas also bear the burden of inherited loans.

The Kamaiya must work for his master until his sauki is paid off, but usually the debt increases while he works, due to the high interest charged, the fines incurred and outright deceit by the master. The illiteracy rate among Kamaiyas is 96.3 per cent and they are generally uninformed, simple and conflict-avoiding people which makes them susceptible to deception by the masters. The bondage to the master can be life-long and sometimes generations-long. 3.3 per cent of Kamaiyas are fourth generation, 21.63 per cent in the third and 28 per cent in the second. 12.6 per cent have been serving for a period between 25-45 years.

Kamaiyas can only change masters if they find on Maghi a new master who is willing to pay off their sauki; this is of course more difficult the higher the sauki. Sometimes Kamaiyas with sauki and their families are effectively sold to a new master without their consent. Masters are not punished for exploiting and abusing Kamaiyas. The system effectively bonds the Kamaiyas indefinitely.

The Tharu people are indigenous to this region and were traditionally a semi-nomadic people. The new migrants from the Hills and the Terai came after the eradication of malaria in the 1950s. The migrants took control of the land and in various ways came to dominate the Tharu.

As a member of the United Nations, Nepal has obligations to respect and implement the provisions of the various international instruments to which it is party. This includes the International Covenant on Civil and Political Rights and the Supplementary Convention on the Abolition of Slavery, the Slave trade and Institutions and Practices Similar to Slavery (1956). Nepal has also signed the 1990 World Summit for Children Declaration and the United Nations Convention on the Rights of the Child.

Nepal has now a multi-party system and a duly elected Government but has yet to promote legislation to transform its mainly feudal economic and social system. The situation of the Kamaiyas is an indication of the kinds of servitude still existing in the country.

ANTI-SLAVERY INTERNATIONAL

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[6 April 1993]

Sudan: war and slavery

Traditional ethnic, tribal and religious conflicts were revived and exploited by the central Government especially at the outbreak of the second phase of the civil war in 1983. The increased presence of the Sudan People's Liberation Movement/Army (SPLM/SPLA), the southern rebel organization, and the arrival in Dinka territory of Rizeigat groups who fled famine in Darfur, added to the tensions.

After 1985, the Transitional Military Council, in order to counter SPLA insurgency devised a comprehensive strategy which included the establishment of armed militia among the Baqqara - traditional supporters of the Umma Party - in Bahr-al-Arab, and among other Muslim groups in Bahr-al-Ghazal. This policy is still applied by the Revolutionary Command Council of General Al Bashir which took power in June 1989. It sparked off a new wave of inter-ethnic conflicts which, in turn, led to a resurgence of slavery in the area.

Reports of capture of southern children and of their sale in the north were ignored or rejected as too incredible until the publication, in 1987, of a report by two independent Sudanese scholars, describing and explaining the pattern of enslavement of southern populations by raiding northern Arabs.

In their investigation into the massacre which took place in the town of Dhein, in the southern Darfur Province, in March 1987, Dr. Suleyman Ali Baldo and Dr. Ushari Ahmed Mahmud of the University of Khartoum discovered evidence of organized slavery. This was practised by the Baqqara (Rezeigat and Misseiriya), who were organized into armed militia supported by the Government. These militia perpetrated several attacks on Dinka villages in 1985 and 1986, killed many people and abducted a large number of women and children. These attacks continued throughout 1987, and, according to reports, resulted in the capture and enslavement of women and children. It is now certain that these practices continued relentlessly until the present. Investigators claim that these military operations against Dinka civilians had the backing of the Sudanese Government. The Dinka are the main supporters of SPLM/SPLA.

The resurgence of slavery in the past years is a result of the civil war (revived in 1983) but it takes its roots in the entire social history of Sudan. Chattel slavery continued to flourish under the colonial administration and, since independence, it has survived in various, albeit often concealed, forms. Lately however, with the official sanction seemingly given to the military operations of the militia against the black African populations, these practices are more open and are considered legitimate.

Since the publication of Baldo and Mahmud's report, many accounts of abduction and enslavement of women and children came from a range of sources to reinforce the existing testimonies. Most of these came from the southern

parts of the provinces of Darfur, Kordofan and Bahr-al-Ghazal, the meeting point between the Islamic north and the Christian-Animist south.

The Khartoum authorities have emphasized the ethnic dimension of the Sudanese civil conflict and have given it a new religious meaning and importance. Sudan, officially an Arab, Islamic, State, is presented as being under threat from Christian, Animist southerners (Dinka, Nuer, Jur and other groups) and attacks on the latter constitute therefore a Jihad or Holy War. Hostage taking which characterized traditional warfare between Baqqara and Dinka has now become acceptable and enslavement of captives is reportedly widely practised. Children are forced to work as domestic servants and agricultural labourers, and young women forced to become servants and concubines.

Slavery and Sudan's international obligations

Sale of children has been reported in several places such as Safaha, Al-Dhein and Kadogli. Southern children are usually taken to the north by their northern buyers and the Sudanese authorities have failed to prevent this. Following Baldo and Mahmud's report, several western reporters investigated in Sudan. In spite of the difficulty in gaining access to the southern areas, they discovered evidence of abduction and enslavement of mostly women and children. Many press reports and independent sources in the past few months confirmed the earlier findings. Sometimes, children are sold by their own parents because of the extreme poverty and starvation to which the war has driven them. In most cases, the parents are not in possession of any information concerning the place where their children are taken. Even when they had been assured that they would be able to recover them, mainly by buying them back, the information was incomplete and subsequent attempts to trace the children were not successful. In a few cases soldiers of the regular Armed Forces were asked by parents to take their children with them as a way of guaranteeing their safety and physical well-being. However, even when soldiers understood the request as an act of charity on their part, insufficient or no provision was made to ensure continued contacts between children and parents. In particular, no record - or no effective record - is kept officially or unofficially of such transactions. These practices violate article 1 (d) of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (hereafter the Convention). Recent reports, again from a range of different sources, mention several thousands of children taken from their homes, especially in the Nuba mountains to various camps whence they were sold to northerners who took them with them as slaves (art. 1 (d)).

Anti-Slavery International conducted an investigation in Sudan in 1988 and made a submission to the Working Group on Contemporary Forms of Slavery. ASI reported on several abductions which took place in southern Sudan in 1987 and 1988, and on the sale and ransom of children. ASI also named some known slave-owners, several of whom were high-ranking officers in the regular army. ASI testified that such sales were conducted with the full knowledge of the commander of the army garrison and that of the commandant of the security and paramilitary police. Recent reports confirm that many sales and abductions are conducted with the knowledge of the authorities, indeed they are a

consequence of official policy in southern Sudan. The Sudanese authorities have failed to honour their obligations under article 6 (1) and (2) of the Convention.

Following the fortieth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, ASI held discussions with the Mission of the Republic of Sudan in Geneva, and the result of this exchange was a visit to Khartoum in December 1988 by the Director of ASI. An agreement was reached with the Sudanese authorities that ASI would organize a mission to investigate allegations of slavery-like practices in the country. However, after the coup d'état of 30 June 1989, the cooperation between ASI and the Sudanese Government stopped and ASI has not been able to investigate officially in Sudan.

Other international, humanitarian, organizations have also been kept at bay and several areas, in particular the Nuba mountains region have been closed to outsiders. The United Nations Under-Secretary-General for Humanitarian Affairs, Jan Eliasson, went to Sudan in September 1992, but was not able to gain access to the area.

Since 1989 and up until the present, ASI has received numerous reports from different sources inside Sudan of the continued slave-taking, mainly of children, in the southern regions. This seems to have intensified in 1992 and again this year according to a variety of sources both inside and outside the country. In addition to the Dinka areas, intensification of the civil war in the Nuba mountains and the forcible relocation of large groups of people from that area have reportedly led to a worsening of the practice of slave-taking. Many children thus displaced are reportedly separated from their families, taken to different areas usually in the north, where they are forced to work as domestic or agricultural servants, in conditions similar to slavery (art. 6 (2)). In addition to forcible labour, female children are also sexually abused. Many women and young girls were reported to be forcibly married to government soldiers.

ASI has been monitoring developments concerning slavery in Sudan for many decades. The present resurgence of slavery in Sudan has pointed to the failure of the Sudanese authorities to meet their obligations under international covenants, in particular the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery which Sudan ratified on 3 August 1990. Attention is here drawn to article 9 of the Convention. ASI is prepared, within its competence, to provide assistance, in the form of research and technical advice, to the Government of Sudan in order to identify areas of abuse and to propose programmes to eliminate such abuse.